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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,168

11/20/2006

Nico Erasmus

183-14

9991

24336

7590

06/08/2009

KEUSEY, TUTUNJIAN & BITETTO, P.C.
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WOODBURY, NY 11797

EXAMINER

SINGH, SUNIL

ART UNIT

PAPER NUMBER

3672

MAIL DATE

DELIVERY MODE

06/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/534,168	ERASMUS ET AL.	
	Examiner	Art Unit	
	Sunil Singh	3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,5,8,11,13,14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,5,8,11,13,14,16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2,4,5,8,11,13,14,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend (US 4052029) in view of Hall (US 6558085).

Townsend discloses a mine support comprising: a deformable tubular sleeve (10,12) made from a ductile metal (see col. 2 lines 5-10), a first material (16, see col. 1 line 57, elements) with a first strength characteristic inside a first interior portion of the sleeve and filling said first interior portion of the sleeve; and a second material (1&20, see col. 1 line 57, elements) with a second strength characteristic inside a remainder of the sleeve interior and filling said remainder of the sleeve interior; the first interior portion having a length, in an axial direction of the sleeve, which is greater than the length of the remainder of the sleeve interior in the axial direction of the sleeve and wherein, in use, one material overlies the other material. Townsend discloses the invention substantially as claimed. However, Townsend is silent about the first and second material being differing cementitious material. Hall teaches first and second material being differing cementitious material (see abstract, col. 3 lines 10-20, col. 4 lines 1-20, see Figure 3). It would have been considered obvious to one of ordinary skill in the art to modify Townsend by substituting the first and second cementitious material as taught by Hall

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for the first and second material disclosed by Townsend since such a modification would yield predictable deformation.

With regards to claims 4,5, it would have been considered obvious to one of ordinary skill in the art to modify Townsend to have the length limitations as called for in claims 4,5 since such a modification yield predictable deformation.

With regards to claims 8,11 it would have been considered obvious to one of ordinary skill in the art to modify Townsend to have the density limitations as called for in claims 8,11 since such a modification yield predictable deformation.

Re claims 13,14, see col. 2 line 40+ of Townsend.

Response to Arguments

3. Applicant's arguments filed 6/3/09 have been fully considered but they are not persuasive. Applicant argues Townsend fail to teach a "single" deformable sleeve. It should be noted that such argument is far more limiting than the claimed subject matter. Applicant argues that Townsend fail to disclose two materials having different strength characteristics. The examiner disagrees. Townsend discloses a first material (16, see col. 1 line 57, elements) with a first strength characteristic and a second material (1&20, see col. 1 line 57, elements) with a second strength characteristic. Applicant argues it is not obvious to modify Townsend in view of Hall since Hall fails to disclose vertically overlaying one material with a different material. The examiner disagrees. Hall clearly teaches vertically overlaying one material with a different material (see col. 3 lines 10-20, col. 4 lines 1-20, see Figure 3). Therefore, it would have been considered obvious to one of ordinary skill in the art to modify Townsend by substituting the first and second

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cementitious material as taught by Hall for the first and second material disclosed by Townsend since such a modification would yield predictable deformation.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/
Primary Examiner, Art Unit 3672

Sunil Singh
Primary Examiner
Art Unit 3672

SS

6/7/09

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